

Judicial Council of the Seventh Circuit

COMPLAINT OF JUDICIAL MISCONDUCT

Complainants:

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Judge:

The Honorable Diane Sykes, United States Court of Appeals for the Seventh Circuit

This complaint does not concern the behavior of Judge Sykes in a particular lawsuit.

Complainants have not filed any lawsuits against Judge Sykes.

Brief Statement of Facts

Judge Diane Sykes is featured on the program of the Federalist Society's Annual Dinner, a sold-out, black-tie fundraiser, which will take place on Thursday, November 14, 2013 in Washington, D.C., in contravention of Canons 2(b) and 4(c) of the Code of Conduct for United States Judges ("Code of Conduct").

The Federalist Society describes itself as "a conservative and libertarian intellectual network that extends to all levels of the legal community" engaged in "reordering priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."¹

The Federalist Society's website advertises the annual dinner as a \$200-per-person, "black tie requested" event "featuring an interview of Justice Clarence Thomas by Judge Diane Sykes."² A photograph of Justice Thomas and Judge Sykes accompanies the webpage with the link to purchase tickets. The dinner is separately ticketed from other activities taking place during the 2013 National Lawyers Convention and will be held at a different hotel.

¹ "Our Purpose," The Federalist Society, <http://www.fed-soc.org/aboutus/> (last accessed Nov. 11, 2013).

² <http://www.fed-soc.org/events/detail/2013-national-lawyers-convention> (last accessed Nov. 11, 2013).

For at least the past two years, the Federalist Society solicited, and “gratefully acknowledge[d],” a variety of corporate and law firm sponsors for their “generous support” of the dinner.³ Sponsors are tiered as “Gold,” “Silver” and “Bronze.” Last year, for example, the annual dinner’s “Gold Sponsors” included Chevron Corporation and Verizon, joined in 2011 by Pfizer, Inc. and the Coca-Cola Bottlers’ Association. “Silver sponsors” last year included PepsiCo, Inc. and Time Warner, Inc. The Federalist Society has not disclosed what dollar amounts are required for donors to get this attribution.

According to Canon 4(c) of the Code of Conduct, a judge “should not personally participate in fund-raising activities, solicit funds for any organization, or use or permit the use of the prestige of judicial office for that purpose.” The commentary accompanying Canon 4(c) states that “[a] judge may attend fund-raising events of law-related and other organizations *although the judge may not be a speaker, a guest of honor, or featured on the program of such an event*” (emphasis added). Moreover, Canon 2(b) states that “[a] judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.”

Here, Judge Sykes has allowed the Federalist Society to use the prestige of her judicial office to sell tickets to an event for which she is billed as a headliner – a speaker and a guest of honor featured on the program. In addition, many, if not most, of the major donors for the Federalist Society’s annual dinner are repeat players in the federal court system, either as parties to litigation or as counsel arguing cases. In 2011, for example, the Supreme Court considered petitions for certiorari filed by several “silver sponsor” law firms pertaining to the Affordable Care Act litigation on the very day that the Federalist Society held its annual dinner honoring Justices Antonin Scalia and Clarence Thomas in a “celebration of service.”

We file this complaint to respectfully ask that you investigate this matter and adjudicate accordingly if Judge Sykes has violated the Code of Conduct’s prohibitions against lending the prestige of her judicial office to solicit funds or otherwise advance the interests of the Federalist Society.

Declaration and signature:

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

_____ (Date) _____

_____ (Date) _____

_____ (Date) _____

³ The Federalist Society 2012 Annual Dinner Program & Seating Booklet; The Federalist Society 2011 Annual Dinner Program & Seating Booklet.